

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
HARRISBURG, PA

JAN - 9 2008

UNITED STATES OF AMERICA,  
Plaintiff

MARY E. DIANDREA, CLERK  
Per  Deputy Clerk

Criminal No. 1-cr-007

vs

1:00-CR-007

EUGENE McDONALD

MOTION TO REDUCE SENTENCE PURSUANT  
TO TITLE 18 U.S.C. § 3582(c)(2)

AND NOW, this 6<sup>th</sup> day of January, 2008, this defendant EUGENE McDONALD, PRO SE, respectfully moves this Honorable Court to reduce the sentence in this case pursuant to Title 18 U.S.C. § 3582(c)(2) and United States Sentencing Commission's Amendment 9 (Crack Cocaine) promulgated April 27, 2007.

Section 3582(c)(2) authorizes a Court to reduce the sentence if the USSC clarifies a guideline or amends a guideline and apply the amendment retroactively. See *United States v. Morris*, 140 F.3d 521, 1999.

On November 1, 2007, the USSC was amended to reduce the disparity between Crack (cocaine base) and Cocaine. On December 11, 2007, the amendment was given retroactivity which is to become effective March 3, 2008. Amendment 9 provides

for a 2 level reduction in a cocaine base defendant's base offense level (BOL) if the BOL is greater than 12.

In 2000, this defendant was given a BOL of 32 and was sentenced to 120 months in prison. The drug amounts in this case were calculated to be 50 grams or more of cocaine base triggering a sentence pursuant to USSC 2D1.1. Because of the USSC Amendment to 2D1.1(a)(3) the drug amounts listed have been reduced according to base offense levels. See (Drug Quantity Table in Amendment 9).

Notwithstanding the drug quantity threshold provided in 21 U.S.C. § 841(b)(1)(A) of 50 grams or more of cocaine base, resulting in a mandatory minimum sentence of 10 years (120 months), Amendment 9 reduces the guideline level in this case of 50 grams or more of cocaine base from level 32 to level 30, therefore, resulting in a sentence below the mandatory minimum of 120 months to 108 months.

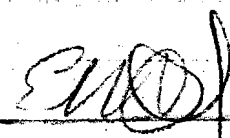
This defendant received a 2 level enhancement for a firearm and a 2 level reduction for USSC 3E1.1 (acceptance of responsibility), which along with Amendment 9, would authorize a sentence below the mandatory minimum sentence imposed.

Section 2D1.1(a)(3) provides a 2 level reduction in this case from an original BOL of 32 to 30 resulting in a sentence of 108 months.

Therefore, this defendant request this Honorable Court reduce the sentence in this case according to the Amendment to USSC 2D1.1 to 108 months. I am currently in Administrative Detention and I

don't have access to the correct legal materials to effectively convey this request, therefore, I ask that this Honorable Court continue this motion literally as a Pro Se defendant, and in view of the discretion afforded the Court in *Kimbrough vs U.S.*, 520 U.S. \_\_\_, 2007.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'E. McDonald', written over a horizontal line.

Eugene McDonald, Pro Se

Dated: this 6<sup>th</sup> Day of January 2008

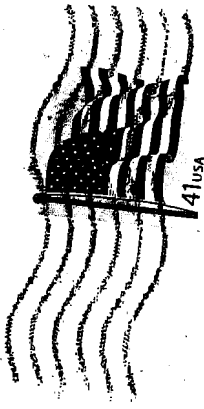
Inmate Name: EUGENE McDONALD

Register Number: 09996-067

United States Penitentiary  
P.O. Box 1000  
Lewisburg, PA 17837

HARRISBURG PA 171

07 JAN 2008 PM 4 L



OFFICE OF THE CLERK  
UNITED STATES DISTRICT COURT  
228 WALNUT STREET  
HARRISBURG, PA 17102

17102+5500

